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MEMO ENDORSED

December 17, 2024

Hon. Barbara Moses
United States District Court
Southern District of New York
500 Pearl Street, Courtroom 20A
New York, New York 10007

Re: Beatriz Diaz v. Schindler Elevator Corp.
Docket #: 24 CV 04602

Dear Honorable Judge Moses:

This firm represents plaintiff Beatriz Diaz in the above referenced matter. I write on behalf of both parties seeking an adjournment of the Settlement Conference presently scheduled for January 14, 2025, at 2:15 pm, to the afternoon of April 28, 29 or 30, 2025.

Plaintiff underwent right shoulder surgery in late November of 2024. At or about the time of the surgery, plaintiff's doctor requested permission from the Workers Compensation Board to perform left shoulder surgery. Plaintiff's Workers Compensation attorney's office advised us that a hearing on the issue should be held by mid January of 2025.

Plaintiff was initially deposed on September 19, 2024. Defense Counsel had previously sought to conduct a further deposition of plaintiff following the right shoulder surgery. As it appears likely that plaintiff will have a further surgery, the parties requested and received an extension of the discovery deadlines from the Honorable Judge Rochon, so that plaintiff could be deposed a second time and an IME conducted, after the second surgery was performed, or in the alternative, after Workers Compensation denied the request. See Pacer Document 20 and 21.

The action is presently scheduled for a Settlement Conference before Your Honor on January 14, 2025. The parties believe the case is unlikely to settle at that time as the Workers Compensation Board's decision with respect to the further surgery is unlikely to be decided by that date. Plaintiff cannot settle the case prior to the second surgery being performed or permanently precluded, as settlement would end plaintiff's right to Workers Compensation benefits.

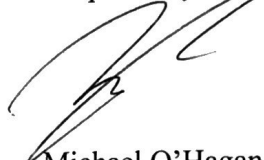
If the Workers Compensation Board grants plaintiff's request for further surgery, it is extremely unlikely that the surgery would be performed prior to the present settlement conference date. Furthermore, if the Board were to deny the further surgery, it is extremely unlikely to do so with sufficient time for defendant to conduct an IME prior to the Settlement Conference.

As such, in the application to extend the discovery deadlines, the parties sought and received permission from Judge Rochon to request an adjournment of the Settlement Conference from Honor.

As such, the parties respectfully request that the Settlement Conference presently scheduled for January 14, 2025, at 2:15 pm, be adjourned to the afternoon of April 28, 29 or 30, 2025. This is the third request for an adjournment.

The parties thank and appreciate the Court's time and consideration of the issues.

Respectfully submitted,



Michael O'Hagan, Esq.
Mirman, Markovits & Landau, P.C.

cc.
Brian S. Gitnik, Esq.
Litchfield Cavo, LLP
Attorneys for Defendant
Schindler Elevator Corp.
By Pacer

Application GRANTED. The settlement conference previously scheduled for January 14, 2025, is hereby ADJOURNED to **April 29, 2025, at 2:15 p.m.** in Courtroom 20A of the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, New York 10007. The parties shall submit their Confidential Settlement Letters and Acknowledgment Forms (*see* Dkt. 14 ¶¶ 3, 4) no later than **April 22, 2025. SO ORDERED.**



Barbara Moses
United States Magistrate Judge
December 18, 2024